

## **SELLERS STANDARD TERMS AND CONDITIONS OF SALE**

THIS TRANSACTION IS GOVERNED BY SELLER'S STANDARD TERMS AND CONDITIONS OF SALE SET FORTH BELOW. NOT WITHSTANDING ANY PROVISIONS SUBMITTED BY BUYER, ACCEPTANCE OF THE ORDER IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO SELLER'S TERMS AND CONDITIONS. SELLER SPECIFICALLY REJECTS ANY DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS AND NEITHER SELLER'S PERFORMANCE NOR RECEIPT OF PAYMENT SHALL CONSTITUTE AN ACCEPTANCE OF THEM.

### **1. CREDIT**

Acceptance of any order is subject to final credit approval.

### **2. PRICE CHANGES**

All prices are subject to change without notice at any time prior to shipment.

### **3. PATENTS**

SELLER reserves the right to discontinue deliveries hereunder of any material, the manufacture, sale and/or use of which, in the opinion of SELLER, infringe any United States or Canadian Letters Patent now or hereafter issued and under which SELLER is not licensed.

### **4. TAXES**

BUYER shall reimburse SELLER for all taxes, excises or other charges which SELLER may be required to pay any government (national, state or local) upon, or measured by the production, sale, transportation, delivery or use of the material sold hereunder.

### **5. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITIES**

SELLER WARRANTS TITLE AND THAT ALL GOODS SOLD UNDER THIS CONTRACT WILL CONFORM TO SELLER'S STANDARD SPECIFICATIONS. THE GOODS ARE OTHERWISE SOLD "AS IS" AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. BUYER IS PURCHASING THE GOODS WITH FULL ASSUMPTION OF THE RISKS ASSOCIATED WITH THIS DISCLAIMER, AND ACKNOWLEDGES THAT THE PURCHASE PRICE HAS BEEN NEGOTIATED TO REFLECT THIS ASSUMPTION OF RISK. ALL CLAIMS FOR ANY ALLEGED DEFECT IN GOODS, SHORTAGE, OR ANY OTHER CAUSE SHALL BE DEEMED TO BE WAIVED UNLESS MADE IN WRITING AND RECEIVED BY SELLER WITHIN TEN (10) DAYS OF DELIVERY OF THE GOODS. SELLER'S LIABILITY FOR ANY SUCH DEFECT IS LIMITED TO THE REPLACEMENT OF GOODS WITH RESPECT TO WHICH SUCH DEFECT IS CLAIMED, OR, AT SELLER'S OPTION, THE REPAYMENT OF ANY PORTION OF THE PURCHASE PRICE RECEIVED THEREFORE SUBJECT TO THE RETURN OF SUCH GOODS TO SELLER IN THE CONDITION IN WHICH THEY WERE ORIGINALLY SHIPPED.

## **6. LAW APPLICABLE**

The laws of the State of Illinois, without consideration of its conflict of law principles, govern all matters arising out of or relating to this contract, including, without limitation, its interpretation, construction, performance, and enforcement.

## **7. NON-ASSIGNABILITY**

Neither BUYER nor SELLER may assign any of its rights under this agreement, voluntarily or involuntarily, whether merger, consolidation, dissolution, operation of law, or any other manner. Any purported assignment of rights in violation of this paragraph is void.

## **8. RETURNABLE CONTAINERS**

Returnable containers shall remain the property of SELLER but BUYER shall pay a deposit fee per container to be determined from time to time by SELLER conditioned upon BUYER'S returning such container, freight prepaid, within ninety (90) days from the date of invoice in good condition and it not having been used to hold other materials. If any returnable container is not returned within the said ninety (90) day period or if it has been used to hold other materials the deposit fee shall be retained by SELLER to reimburse it for loss of said container and title thereto shall thereupon vest in BUYER.

## **9. TECHNICAL ADVICE**

At Buyer's request, SELLER may furnish such technical assistance and information as it has available with respect to the use of the materials delivered hereunder. Unless agreed otherwise in writing, all such technical assistance and information will be provided gratis, and BUYER assumes sole responsibility for results obtained in reliance thereon.

## **10. STANDARD CONDITIONS OF SALES**

**a.** In the event BUYER fails to fulfill SELLER terms of payment, or in case SELLER shall have any doubt at any time as to BUYER'S financial responsibility, SELLER may decline to make further deliveries except upon receipt of cash or satisfactory security.

**b.** In case of bulk shipments or tank shipments, shipper's weights, certified by a weighmaster, shall be conclusive.

**c.** In addition to the Standard Conditions of Sale set forth herein, any Special Conditions of Sale set forth on the front of this invoice or in the current price list for the products sold hereunder shall apply and are incorporated by reference herein.

**d.** This document, along with any applicable Sales Agreement and any other document specifically referred to herein, contain all of the terms and conditions with respect to the sale and purchase of the products sold hereunder and supersede any prior agreements. No modification of this document shall be binding on either party unless in writing and signed by both parties. No modification shall be effected by the acknowledgement or acceptance of purchase order forms stipulating different conditions. Unless BUYER shall notify SELLER in writing to the contrary as soon as practicable after receipt of this document by BUYER, BUYER'S acceptance of the products or payments thereafter shall be equivalent to BUYER'S assent to the terms and conditions hereof. Waiver by other party of any default by the other hereunder shall not be deemed a waiver by such party of any default by the other which may thereafter occur.

## **11. FORCE MAJEURE PROVISIONS**

Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond Seller's reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) changes in law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) shortage of adequate power or transportation facilities; and (j) shortage or unavailability of raw materials or product components (each a "Force Majeure Event").

If Seller determines that its ability to supply the total demand for the Products, or to obtain material used directly or indirectly in the manufacture of the Products, is hindered, limited or made impracticable due to a Force Majeure Event, Seller may allocate its available supply of Products or such material (without obligation to acquire other supplies of any such Products or materials) among its customers on such basis as Seller determines to be equitable without liability for any failure or performance which may result therefrom.

If the Force Majeure Event continues for more than [90] consecutive days, either party may terminate this agreement by giving [5] business days' written notice to the other party.